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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

ALEC TABAK,

Plaintiff,

- against -

IDLE MEDIA, INC.

Defendant.

Docket No.

M

19-1432

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Alec Tabak (“Tabak” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Idle Media, Inc. (“Idle” or “Defendant”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act and for the removal and/or alteration of copyright management information under Section 1202(b) of the Digital Millennium Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of rapper Troy Ave. coming out of Court, owned and registered by Tabak, a professional photographer. Accordingly, Tabak seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

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3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacts business in Pennsylvania.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

### PARTIES

5. Tabak is a professional photographer in the business of licensing his photographs for a fee having a usual place of business at 17 Monroe Street, Apt. R3, New York, New York 10002.

6. Upon information and belief, Idle is a foreign business corporation duly organized and existing under the laws of the State of Pennsylvania, with a place of business at 216 South Centre Avenue, Leesport, PA 19533. Upon information and belief Idle is registered with the Pennsylvania Department of State Division of Corporations to do business in the State of Pennsylvania. At all times material, hereto, Idle has owned and operated a website at the URL: [www.hiphopately.com](http://www.hiphopately.com) (the "Website").

### STATEMENT OF FACTS

#### **A. Background and Plaintiff's Ownership of the Photograph**

7. Tabak photographed rapper Troy Ave. coming out of Court (the "Photograph"). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Tabak then licensed the Photograph to the New York Daily News. On July 11, 2016, the New York Daily News ran an article that features the Photograph titled *Rapper Troy Ave freed on \$500G bond as authorities continue to investigate fatal shooting at Irving Plaza T.I. concert*. Tabak's name was featured in a gutter credit identifying him as the photographer of the Photograph. A screenshot of the Photograph in the article is attached hereto as Exhibit B.

9. Tabak is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

10. The Photograph was registered with the United States Copyright Office and was given registration number VA 2-013-887.

**B. Defendant's Infringing Activities**

11. Idle ran an article on the Website entitled *2 Troy Ave Free on Bail*. See URL: <https://www.hiphopately.com/troy-ave-free-bail/>. A screenshot of the Photograph on the Website is attached hereto as Exhibit C.

12. Idle did not license the Photograph from Plaintiff for its article, nor did Idle have Plaintiff's permission or consent to publish the Photograph on its Website.

**FIRST CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)**  
**(17 U.S.C. §§ 106, 501)**

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. Idle infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Idle is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

17. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

18. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

19. Plaintiff further is entitled to his attorney's fees and full costs pursuant to 17 U.S.C. § 505

**SECOND CLAIM FOR RELIEF**  
**INTEGRITY OF COPYRIGHT MANAGEMENT INFORMATION AGAINST**  
**DEFENDANT**  
**(17 U.S.C. § 1202)**

20. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-19 above.

21. Upon information and belief, Idle copied the Photograph from the New York Daily News which contained a gutter credit underneath the Photograph stating "Alec Tabak" and placed it on its Website without the gutter credit.

22. Upon information and belief, intentionally and knowingly removed copyright management information identifying Plaintiff as the photographer of the Photograph.

23. The conduct of Idle violates 17 U.S.C. § 1202(b).

24. Upon information and belief, Idle's falsification, removal and/or alteration of the aforementioned copyright management information was made without the knowledge or consent of Plaintiff.

25. Upon information and belief, the falsification, alteration and/or removal of said copyright management information was made by Idle intentionally, knowingly and with the intent to induce, enable, facilitate, or conceal their infringement of Plaintiff's copyright in the

Photograph. Idle also knew, or should have known, that such falsification, alteration and/or removal of said copyright management information would induce, enable, facilitate, or conceal their infringement of Plaintiff's copyright in the Photograph.

26. As a result of the wrongful conduct of Idle as alleged herein, Plaintiff is entitled to recover from Idle the damages, that he sustained and will sustain, and any gains, profits and advantages obtained by Idle because of its violations of 17 U.S.C. § 1202, including attorney's fees and costs.

27. Alternatively, Plaintiff may elect to recover from Idle statutory damages pursuant to 17 U.S.C. § 1203(c) (3) in a sum of at least \$2,500 up to \$25,000 for each violation of 17 U.S.C. § 1202.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Idle be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. The Defendant Idle be adjudged to have falsified, removed and/or altered copyright management information in violation of 17 U.S.C. § 1202.
3. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photographs; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
4. That, with regard to the Second Claim for Relief, Plaintiff be awarded either:
  - a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's falsification, removal and/or alteration of

copyright management information; or b) alternatively, statutory damages of at least \$2,500 and up to \$ 25,000 for each instance of false copyright management information and/or removal or alteration of copyright management information committed by Defendant pursuant to 17 U.S.C. § 1203(c);

5. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
6. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
7. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 1203(b);
8. That Plaintiff be awarded pre-judgment interest; and
9. Such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: April 4, 2019

LAW OFFICES OF BRUCE J. CHASAN, LLC



By: /s / Bruce J. Chasan  
Bruce J. Chasan (PA. I.D. No. 29227)  
1500 JFK Blvd. Suite 312  
Philadelphia, PA 19102  
Tele: 215-567-4400  
[bjchasan@brucechasanlaw.com](mailto:bjchasan@brucechasanlaw.com)

LIEBOWITZ LAW FIRM, PLLC

By: /s/ Richard Liebowitz

Richard P. Liebowitz  
11 Sunrise Plaza, Suite 305  
Valley Stream, NY 11580  
(516) 233-1660  
[RL@LiebowitzLawFirm.com](mailto:RL@LiebowitzLawFirm.com)  
*(Pro Hac Vice Forthcoming)*

*Attorneys for Plaintiff Alec Tabak*

# **EXHIBIT A**



# **EXHIBIT B**

SEARCH

DAILY NEWS

TriHonda

For News Headlines  
Business stories including  
those with positive employee  
who has since left continue

Asian couple in Jacqueline  
day at time became  
she was about due good  
out for 2015

Robert Stachowiak says  
Michael Jackson's successors  
were "isolated to the other"  
and his "team needs more..."

Neighbors protest at the  
Democrat for Bradley Quinn

Residence didn't stop  
without "recognize her life  
and her claim

Officer's husband and son of his wife and child. Officer didn't know the wife  
also died this morning.

Chester police said they had been called to a residence on the 1000 block of North 10th Street around 11:30 p.m. on Saturday night. Officers found the man and woman dead inside their home. The man was identified as 38-year-old Michael Stachowiak, and the woman as his wife, 36-year-old Jennifer Stachowiak. Both were found in separate bedrooms. The cause of death is under investigation.

Chester police said the man had been found dead in his bed, and both bodies brought down the companion hallway had suffered from a

**PAGED PORT**

**Cops Called In Hours After Couple Begins Renovation On Their Old Home C**

Police officers outside the residence where they found the couple dead.

PHOTO BY JEFFREY L. COOPER FOR THE DAILY NEWS

# **EXHIBIT C**

The image is a screenshot of a news article from the website HipHopDX.com. The main title of the article is "Troy Ave Free On Bail". Below the title is a black and white photograph of a man, identified as Troy Ave, standing outdoors. To the right of the photo is a sidebar containing several news snippets with small thumbnail images. At the bottom of the page, there is a navigation bar with links to other sections of the site like "LATEST NEWS", "PROMOTED TRACKS", and "APP". The overall layout is typical of a news website.

AO 121 (Rev. 06/16)

TO:

**Register of Copyrights  
U.S. Copyright Office  
101 Independence Ave. S.E.  
Washington, D.C. 20559-6000**

**REPORT ON THE  
FILING OR DETERMINATION OF AN  
ACTION OR APPEAL  
REGARDING A COPYRIGHT**

In compliance with the provisions of 17 U.S.C. 508, you are hereby advised that a court action or appeal has been filed on the following copyright(s):

| <input type="checkbox"/> ACTION <input type="checkbox"/> APPEAL |                        | COURT NAME AND LOCATION<br><b>Eastern District of Pennsylvania- James A. Byrne U.S.</b><br>Courthouse<br>601 Market Street<br>Philadelphia, PA 19106 |                |
|---|------------------------|--|----------------|
| DOCKET NO.  | DATE FILED<br>4/4/2019 | DEFENDANT<br>Idle Media, Inc.  |                |
| PLAINTIFF<br>Alec Tabak   |                        |  |                |
| COPYRIGHT<br>REGISTRATION NO.                                   | TITLE OF WORK          |  | AUTHOR OR WORK |
| 1 VA 2-013-887  | Troy Ave               |  | Alec Tabak     |
| 2   |                        |  |                |
| 3   |                        |  |                |
| 4   |                        |  |                |
| 5   |                        |  |                |

In the above-entitled case, the following copyright(s) have been included:

| DATE INCLUDED                 | INCLUDED BY<br><input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading |                |
|-------------------------------|---|----------------|
| COPYRIGHT<br>REGISTRATION NO. | TITLE OF WORK   | AUTHOR OF WORK |
| 1                             |   |                |
| 2                             |   |                |
| 3                             |   |                |

In the above-entitled case, a final decision was rendered on the date entered below. A copy of the order or judgment together with the written opinion, if any, of the court is attached.

|   |  |               |
|---|--|---------------|
| COPY ATTACHED<br><input type="checkbox"/> Order <input type="checkbox"/> Judgment | WRITTEN OPINION ATTACHED<br><input type="checkbox"/> Yes <input type="checkbox"/> No | DATE RENDERED |
| CLERK   | (BY) DEPUTY CLERK  | DATE          |

1) Upon initiation of action,  
mail copy to Register of Copyrights      2) Upon filing of document adding copyright(s),  
mail copy to Register of Copyrights      3) Upon termination of action,  
mail copy to Register of Copyrights

**DISTRIBUTION:**

4) In the event of an appeal, forward copy to Appellate Court      5) Case File Copy